

5/027/086



United States Department of the Interior

BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631



In Reply Refer to:
3800
(U-010)
UTU-078278

April 11, 2003

CERTIFIED MAIL #7001 1940 0004 6456 0311
RETURN RECEIPT REQUESTED

DECISION

PHIL LEVIN :
PRESIDENT : 43 CFR 3809
LEVIN STONE : SURFACE MANAGEMENT
PO BOX 95 :
ASH FORK AZ 86320 :

Notice Expired-Reclamation Required

Notice UTU-078278 was filed with this office on May 12, 2000. § 3809.300(a) of the Surface Management regulations requires that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the BLM in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of § 3809.503. The Bureau of Land Management (BLM) did not receive written notification that you wished to extend your notice by January 20, 2003 (extended to January 21, 2003 due to a federal holiday). Because you did not meet the requirements under § 3809.333, your notice, UTU-078278, expired on January 20, 2003.

Pursuant to § 3809.300(d), you may not conduct operations under an expired notice. § 3809.300(d) does allow you the option of filing a new Notice or Plan, however since you have reclaimed the stone quarry excavated under your notice, your current operations consist only of an occupancy of the public lands. Therefore, the appropriate remedy to the expiration of your notice is to submit an application for a Land Use Permit (LUP). Applications for a LUP were sent to you on September 17, 2002.

If you do not submit a LUP within 30 days from receipt of this decision, reclamation must begin on the 31st day, and be completed at the earliest feasible time, unless you contact this office and gain approval to postpone commencement. To ensure that you meet

RECEIVED

APR 15 2003

DIV. OF OIL, GAS & MINING

the standards described in § 3809.420(b)(2 and 3) (identical to § 3809.1-3(d)(2 through 4) of the regulations effective immediately before January 20, 2001), an inspection of the site subject to your notice was conducted on April 2, 2003 and revealed the following items that must be completed:

1. Remove the remaining pallets of stone from the staging area.
2. Rip the staging area and the road to the Levin #1 quarry.
3. Apply a seed mix approved by the authorized officer of the BLM.

In accordance with § 3809.420(b)(3)(iii) (identical to § 3809.1-(d)(5) of the regulations effective immediately before January 20, 2001), you must notify this office upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701. If you are presently engaged in occupancy, under 43 CFR 3715, of the lands encompassed by your expired notice, you may also be subject to enforcement actions as specified at § 3715.7-1.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You

have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

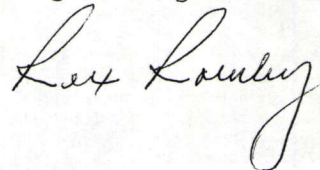
If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.



Enclosure:

Form 1842-1

cc: Tom Munson, UDOGM (S/027/086)